

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO.1010 OF 1985

For Approval and Signature

The Hon'ble Mr. Justice S.K. KESHOTE

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1. Whether reporters of local papers may be allowed to see the judgment ?
 2. To be referred to the reporters or not ?
 3. Whether their lordships wish to see the fair copy of the judgment ?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950, or any order made thereunder ?
 5. Whether it is to be circulated to the Civil Judge?

RAJ STONE QUARRYS & ANR.
VERSUS
THE DY.COLLECTOR, SURAT, & ORS.

Appearance:

None present for the Petitioners
MR HL JANI for Respondents No.1 & 2
None present for Respondent No.3

Coram: S.K. Keshote,J
Date of decision: 24/12/1997

C.A.V.JUDGMENT

#. I have already decided many of the identical matters being Special Civil Applications No.1009/85, 5623/85, 1722/86, 1011/85 and 324/95, pronounced on 9.12.97.

#. Heard learned counsel for respondents No.1 and 2 and perused the Special Civil Application. Both the authorities below concurrently held that the lease of the land in dispute which has been given to the petitioners by respondent No.3 for 50 years was clearly in contravention of the provisions of Section 73AA of the Bombay Land Revenue Code, 1879. The land admittedly was belonging to an Adivasi and transfer of the same could have been permissible only with prior sanction of the competent authority. The petitioners admittedly have not taken any prior sanction of the competent authority for taking of this land on lease for 50 years from respondent No.3. The petitioners have played fraud with the provisions of a benevolent Act. Section 73AA was enacted in the Act aforesaid so that the persons like respondent No.3 belonging to down trodden society, i.e. Adivasis, may not be exploited by the persons of means like the petitioners. The petitioners have taken this land on lease for excavating minerals therefrom, i.e. for business. The very purpose and object for which Section 73AA has been enacted in the Act aforesaid has totally been frustrated and an attempt has been made by the petitioners to make it nugatory and as such this act of the petitioners cannot be tolerated and cannot be taken leniently. The authorities may take the matters leniently and casually but this Court will not. The petitioners have tried to make out a contention in the Special Civil Application that the provisions of Section 73AA of the Act aforesaid are not applicable to the present case as it is only a case of taking the land on lease for a period of 50 years. I fail to see any justification in this contention. An Adivasi has been divested of the land for 50 years and after expiry of 50 years whether that person will survive or not is another important question, leaving apart the question that it may be too difficult for a person like the respondent No.3 to take the land back from the persons of the category to which the petitioners belong, after the expiry of the period of lease. Even if the respondent No.3 goes for litigation, which has its own life, then in that eventuality also, it is difficult to accept that even after expiry of 50 years, the land would have been likely be reverted to him. The authorities below have not committed any error in ordering for forfeiture of the land to the Government as well as imposing the penalty of Rs.30,000/- against the petitioners. The petitioners are the persons concerned for creation of all these things

and to exploit an Adivasi and as such, the penalty has rightly been imposed and no interference can be made therein.

#. Before parting with the judgment, I am constrained to observe that the officers of the State and its functionaries do not care to see that these benevolent provisions are being complied with and implemented. Further they are not keeping strict vigil or dog-watch on all the acts and actions of the persons who are in dominating position in adopting all sort of tactics to exploit Adivasis. While granting the quarry permit to the persons like petitioners by the competent authority for excavating minerals from the lands, the said authority has to undertake inquiry whether this land is belonging to the persons who have applied for permission or whether in case this land is of Adivasi, then prior permission has been taken for giving of this land to a non Adivasi, which has not been done in the present case. It is not out of context to state that this Court has come across number of registered Sale Deeds of the lands of Adivasis in favour of Non Adivasis and the registering authorities have also not taken any care or vigilance to see that such documents are not registered. However, it is for the State government to take care of the provisions as contained in Section 73AA of the aforesaid Act and to keep vigilance and dog-watch to see that these provisions are not frustrated or made nugatory by the persons of means and the Adivasis really get the benefits of the same.

#. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this Court, stands vacated. No order as to costs.

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(sunil)